



## Senate

General Assembly

**File No. 604**

February Session, 2014

Substitute Senate Bill No. 104

*Senate, April 17, 2014*

The Committee on Appropriations reported through SEN. BYE of the 5th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

### **AN ACT PROVIDING FINANCIAL RELIEF TO NURSING HOMES FOR UNCOMPENSATED CARE.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 17b-320 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective July 1, 2014*):

3 (a) For purposes of this section and section 17b-321:

4 (1) "Commissioner" means the Commissioner of Revenue Services;

5 (2) "Department" means the Department of Revenue Services;

6 (3) "Nursing home" means any licensed chronic and convalescent  
7 nursing home or a rest home with nursing supervision, but does not  
8 include, upon approval of the waiver of federal requirements for  
9 uniform and broad-based user fees in accordance with 42 CFR 433.68,  
10 pursuant to section 17b-323, any nursing home that is owned and  
11 operated as of May 1, 2005, by the legal entity that is registered as a  
12 continuing care facility with the Department of Social Services in

13 accordance with section 17b-521, regardless of whether such nursing  
14 home participates in the Medicaid program and any nursing home  
15 licensed after May 1, 2005, that is owned and operated by the legal  
16 entity that is registered as a continuing care facility with the  
17 Department of Social Services in accordance with section 17b-521;

18 (4) "Medicare day" means a day of nursing home care service  
19 provided to an individual who is eligible for payment, in full or with a  
20 coinsurance requirement, under the federal Medicare program,  
21 including fee for service and managed care coverage;

22 (5) "Medicaid pending day" means a day of nursing home care  
23 service provided to an individual who has filed an application for  
24 benefits under the federal Medicaid program;

25 [(5)] (6) "Resident day" means a day of nursing home care service  
26 provided to an individual and includes the day a resident is admitted  
27 and any day for which the nursing home is eligible for payment for  
28 reserving a resident's bed due to hospitalization or temporary leave  
29 and for the date of death. For purposes of this subdivision, a day of  
30 nursing home care service shall be the period of time between the  
31 census-taking hour in a nursing home on two successive calendar  
32 days. "Resident day" does not include a Medicare day or the day a  
33 resident is discharged or any Medicaid pending day until such time as  
34 the nursing home has received Medicaid payment for nursing home  
35 care services provided;

36 [(6)] (7) "Nursing home net revenue" means amounts billed by a  
37 nursing home for all room, board and ancillary services, minus (A)  
38 contractual allowances, (B) payer discounts, (C) charity care, and (D)  
39 bad debts; and

40 [(7)] (8) "Contractual allowances" means the amount of discounts  
41 allowed by a nursing home to certain payers from amounts billed for  
42 room, board and ancillary services.

43 (b) (1) (A) For each calendar quarter commencing on or after July 1,

44 2005, there is hereby imposed a resident day user fee on each nursing  
45 home in this state, which fee shall be the product of the nursing home's  
46 total resident days during the calendar quarter multiplied by the user  
47 fee, as determined by the Commissioner of Social Services pursuant to  
48 subsection (a) of section 17b-321.

49 (B) Commencing with the calendar quarter in which approval of the  
50 waiver of federal requirements for uniform and broad-based user fees  
51 in accordance with 42 CFR 433.68 pursuant to section 17b-323 is  
52 granted, the resident day user fee shall be the product of the nursing  
53 home's total resident days during the calendar quarter multiplied by  
54 the user fee, as redetermined by the Commissioner of Social Services  
55 pursuant to subsection (b) of section 17b-321.

56 (2) Each nursing home shall, on or before the last day of January,  
57 April, July, and October of each year, render to the commissioner a  
58 return, on forms prescribed or furnished by the commissioner, stating  
59 the nursing home's total resident days during the calendar quarter  
60 ending on the last day of the preceding month and stating such other  
61 information as the commissioner deems necessary for the proper  
62 administration of this section. The resident day user fee imposed  
63 under this section shall be due and payable on the due date of such  
64 return. Each nursing home shall be required to file such return  
65 electronically with the department and to make such payment by  
66 electronic funds transfer in the manner provided by chapter 228g,  
67 irrespective of whether the nursing home would have otherwise been  
68 required to file such return electronically or to make such payment by  
69 electronic funds transfer under the provisions of said chapter 228g.

70 (c) Whenever such resident day user fee is not paid when due, a  
71 penalty of ten per cent of the amount due or fifty dollars, whichever is  
72 greater, shall be imposed, and interest at the rate of one per cent per  
73 month or fraction thereof shall accrue on such user fee from the due  
74 date of such user fee until the date of payment.

75 (d) The commissioner shall notify the Commissioner of Social  
76 Services of any amount delinquent under [sections 17b-320 to 17b-323,

77 inclusive] this section and sections 17b-321 and 17b-323, and, upon  
78 receipt of such notice, the Commissioner of Social Services shall deduct  
79 and withhold such amount from amounts otherwise payable by the  
80 Department of Social Services to the delinquent nursing home.

81 (e) The provisions of section 12-548, sections 12-550 to 12-554,  
82 inclusive, and section 12-555a shall apply to the provisions of this  
83 section in the same manner and with the same force and effect as if the  
84 language of said sections had been incorporated in full into this section  
85 and had expressly referred to the user fee imposed under this section,  
86 except to the extent that any provision is inconsistent with a provision  
87 in this section. For purposes of section 12-39g, the resident day user fee  
88 shall be treated as a tax.

89 (f) The commissioner may enter into an agreement with the  
90 Commissioner of Social Services delegating to the Commissioner of  
91 Social Services the authority to examine the records and returns of any  
92 nursing home subject to the resident day user fee imposed under this  
93 section and to determine whether such user fee has been underpaid or  
94 overpaid. If such authority is so delegated, examinations of such  
95 records and returns by the Department of Social Services and  
96 determinations by said department that such user fee has been  
97 underpaid or overpaid, shall have the same effect as similar  
98 examinations or determinations made by the Department of Revenue  
99 Services.

100 (g) (1) The commissioner shall not collect the resident day user fee  
101 pursuant to this section until the Commissioner of Social Services  
102 informs the commissioner that all the necessary federal approvals are  
103 in effect to secure federal financial participation matching funds  
104 associated with the rate increases as described in subdivision (4) of  
105 subsection (f) of section 17b-340.

106 (2) The commissioner shall cease to collect the resident day user fee  
107 pursuant to this section if the Commissioner of Social Services informs  
108 the commissioner that the federal approvals described in subdivision  
109 (1) of this subsection are withheld or withdrawn.

This act shall take effect as follows and shall amend the following sections:
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Section 1	<i>July 1, 2014</i>	17b-320
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***Statement of Legislative Commissioners:***

In section 1(d), "sections 17b-320 to 17b-323, inclusive" was bracketed and "this section and sections 17b-321 and 17b-323" was inserted after the closing bracket for accuracy.

***HS***            *Joint Favorable C/R*

APP

***APP***            *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

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## **OFA Fiscal Note**

### **State Impact:**

<b>Agency Affected</b>	<b>Fund-Effect</b>	<b>FY 15 \$</b>	<b>FY 16 \$</b>
Department of Revenue Services	GF - Revenue Impact	See Below	See Below

**Municipal Impact:** None

### **Explanation**

The bill delays the receipt of revenue from the nursing home bed tax on beds that are occupied by residents with pending Medicaid determinations. The bill specifies that the nursing home does not have to pay the tax (currently approximately \$21 per day) until the resident has been determined to be eligible for Medicaid and the home has received Medicaid payment for the stay.

For those residents who are ultimately determined eligible, this represents a temporary loss in revenue, which may then result in a shift in revenue when the revenue is received. Consequently, this may result in a revenue reduction in FY 15 should assumed revenue be delayed beyond the end of the fiscal year. For those residents who are finally determined to be ineligible for Medicaid, this represents a loss in revenue, as the bill does not appear to have a method to recoup the tax during the time of pending eligibility.

The total amount of revenue affected is not known. A survey in 2012 found that approximately \$58 million was collectively owed to nursing homes by Medicaid for patients with pending determinations that exceeded 90 days. This would indicate approximately 290,000 Medicaid bed days. Based on the bed tax of \$21 per day, \$6.1 million

in revenue would be impacted. Additionally, the bill would affect delayed determinations from the first day of service. It is not known how many additional bed days are impacted by delayed determinations that are under 90 days.

***The Out Years***

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

**OLR Bill Analysis****sSB 104*****AN ACT PROVIDING FINANCIAL RELIEF TO NURSING HOMES FOR UNCOMPENSATED CARE.*****SUMMARY:**

This bill reduces resident day user fees paid by chronic and convalescent nursing homes (CCNHs) and rest homes with nursing supervision (RHNSs) that have not yet received Medicaid payments from the Department of Social Services (DSS) for providing care for individuals who have filed Medicaid applications.

EFFECTIVE DATE: July 1, 2014

**CALCULATION OF RESIDENT DAY USER FEES**

Most CCNHs and RHNSs must pay resident day user fees quarterly to the Department of Revenue Services (DRS). DSS calculates the fees based on the number of resident days during each calendar quarter. A “resident day” is a day of nursing home care service provided to an individual, including the day a resident is admitted, days the facility reserves the resident’s bed during a hospital stay, and the day a resident dies. By law, Medicare days (i.e., days of service provided to someone eligible for Medicare payments) are not counted as resident days. This bill also excludes “Medicaid pending days,” which the bill defines as days of nursing home care service provided to an individual who has filed an application for benefits under the federal Medicaid program. Under the bill, the exclusion continues until the facility receives Medicaid payment for nursing home services provided.

The bill does not address individuals to whom DSS denies Medicaid. It is unclear how those who file Medicaid applications and are rejected would be accounted for under this bill.



**BACKGROUND*****Resident Day User Fees***

Federal law allows states to impose health care-related taxes, provided such taxes are broad-based and uniformly imposed, though the federal Centers for Medicare and Medicaid Services (CMS) may waive those requirements in certain cases. Connecticut has instituted this tax as a nursing home resident day user fee. Licensed CCNHs and RHNSs must pay this fee, though CMS allowed DSS to waive the requirement for continuing care facilities (i.e., continuing care retirement facilities in which seniors may initially live in an independent apartment and later, when they become frailer, receive assisted living services there or move into an assisted living unit).

Though DSS calculates the fees, DRS collects them. Facilities must pay the fees by the last day of January, April, July, and October, and also submit returns documenting the number of resident days and other information.

**COMMITTEE ACTION**

## Human Services Committee

Joint Favorable Change of Reference

Yea 18 Nay 0 (03/11/2014)

## Appropriations Committee

Joint Favorable Substitute

Yea 49 Nay 0 (04/01/2014)